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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/052,354

01/23/2002

Stephen Lane

020001-00004

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01/26/2005

ARENT FOX KINTNER PLOTKIN & KAHN, PLLC

Suite 400

1050 Connecticut Avenue, N.W.

Washington, DC 20036-5339

EXAMINER

PREVIL, DANIEL

ART UNIT

PAPER NUMBER

2636

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/052,354

Applicant(s)

LANE ET AL.

Examiner

Daniel Previl

Art Unit

2636

-- **Th MAILING DATE of this communication appears on the cover sheet with th correspondence address --**
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,9,10,12,22,23,40 and 41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,9,10,12,22,23,40 and 41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>09232004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is responsive to communication filed on September 23, 2004.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-5, 9-10, 12, 22-23, 40-41, are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding claims 1, 4, 9, 22, 40, 41, the phrase "any person" in all mentioned claims and the phrase "independent of whether the any person includes a sensor" in all mentioned claims, consider as a new matter because they were not described in the specification.

Claims 2-3, 5, 10, 12, 23, are rejected for the same reason since they depend from rejected claims.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 9-10, 12, are rejected under 35 U.S.C. 102(e) as being anticipated by Wildman et al. (US 6,727,818).

Regarding claims 1, 9, Wildman discloses a method of improving hand hygiene compliance (col. 3, lines 28-45) comprising the steps of: maintaining a computer database (a processing unit 126) (fig. 4; col. 2, lines 44-52); determining whether any person entered a first area independent of whether the any person includes a sensor (all the zones except for the family zone 226 has a sensor 118) (fig. 5; col. 9, lines 14-16 and lines 39-51); determining whether the any person left the first area and entered a second area (caregiver left the clinical zone 222 and enters a patient room 230 through the entry zone 220) (fig. 5; col. 9, lines 39-44); determining whether the any person washed their hands before leaving the first area, sending this information to the computer database (when caregiver 110 wash hands sensing this information to the master station 129) (col. 10, lines 53-55; col. 9, lines 49-55); if it is determined that the any person did not washed their hands before leaving the first area, determining whether the

any person washed their hands in the second area (caregiver 110 next leaves position (B) without washing hands 107 and enters a second nurse or patient contact zone) (col. 11, lines 60-62); if it is determined that the any person washed their hands in the second, sending the information to the computer database (a compliance data is recorded at the master station 129) (col. 11, lines 60-66; col. 12, lines 10-27); if it is determined that the person did not wash their hands in the second area, generating a least one of a warning and a reminder (col. 8, lines 29-45; col. 9, lines 14-28); if it is determined that the any person did not wash their hands after at least one of the warning and the reminder is generated, sending the information to the computer database (col. 8, lines 29-52; col. 9, lines 14-36).

Regarding claim 2, Wildman discloses the step of generating at least one of the warning and the reminder comprises the step of generating at least of the warning and the reminder when after the any person enters the second area without washing their hands in the first area, a predetermined amount of time expires without the any person washing their hands in the second area (col. 8, lines 29-67; col. 9, lines 1-1-36).

Regarding claims 3, 12, Wildman discloses at least one of the warning and the reminder comprises at least one of an audio and a visual signal (col. 9, lines 30-33).

Regarding claim 10, Wildman discloses IR beam breaker switch (fig. 2; col. 5, lines 35-62).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4-5, 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wildman et al. (US 6,727,818) in view of Hinkel (US 5,870,015).

Regarding claims 4, 22, Wildman discloses a method of improving hand hygiene compliance (abstract) comprising: generating at least one of a warning signal and a reminder and sending this information to the central database (fig. 5; col. 8, lines 29-49; col. 9, lines 29-36); if it is determined that the any person did not wash their hands after the at least one of the warning signal and the reminder was generated, sending this information to the central database (fig. 5; col. 8, lines 29-50; col. 11, lines 3-36).

Wildman discloses the limitations above but fails to explicitly disclose the step of determining whether any person flushes at least one of a restroom toilet and a soil room waste dispenser; if the any person flushed the at least one of the restroom toilet and the soil room waste dispenser, determining whether the any person washed their hands within a predetermined amount of time after flushing the at least one of the restroom toilet and the soil room dispenser; if it is determined that the any person did not wash their hands within the

predetermined amount of time after flushing the at least one of the restroom toilet and the soil room dispenser.

However, Hinkel discloses the step of determining whether any person flushes at least one of a restroom toilet and a soil room waste dispenser (col. 1, lines 14-16); if the any person flushed the at least one of the restroom toilet and the soil room waste dispenser, determining whether the any person washed their hands within a predetermined amount of time after flushing the at least one of the restroom toilet and the soil room dispenser (predetermined amount of time is inherently included after flushing the toilet) (flushing the toilet and properly washing hands) (col. 1, lines 14-16); if it is determined that the any person did not wash their hands within the predetermined amount of time after flushing the at least one of the restroom toilet and the soil room dispenser (toilet instruction issue audible instructions concerning flushing of the toilet) (col. 4, lines 30-36).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Hinkel in Wildman. Doing so would reduce infection rate and save lives by enhancing efficiently the hygiene system as taught by Hinkel (col. 1, lines 20-35).

Regarding claims 5, 23, Wildman discloses at least one of the warning signal and the reminder comprises as at least one of an audio signal and a visual signal (col. 9, lines 30-33).

5. Claims 40-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wildman et al. (US 6,727,818) in view of Waltenberger et al. (US 5,857,228).

Regarding claims 40-41, Wildman discloses a method of improving hand hygiene compliance (col. 3, lines 20-45) comprising: generating at least one of a warning signal and a reminder and sending this information to the central database (fig. 5; col. 8, lines 29-49; col. 9, lines 29-36); if it is determined that the any person did not wash their hands after the at least one of the warning signal and the reminder was generated, sending this information to the central database (fig. 5; col. 8, lines 29-50; col. 11, lines 3-36).

Wildman discloses all the limitations above but fails to explicitly disclose the step of determining whether any person closed a door independent of whether the person includes a sensor, wherein the door divides a first area from a second area, the second area has at least one of a toilet and a waste dispenser located therein, and the any person closed the door after entering the second area from the first area, determining whether the any person flushed the at least one of the toilet and the waste dispenser; if the any person flushed the at least one of the toilet and the waste dispenser, determining whether the any person washed their hands before opening the door to leave the second area; if it is determined that the any person did not wash their hands before opening the door to leave the second area.

However, Waltenberger discloses the step of determining whether any person closed a door independent of whether the person includes a sensor,

wherein the door divides a first area from a second area, the second area has at least one of a toilet and a waste dispenser located therein, and the any person closed the door after entering the second area from the first area (fig. 1; col. 4, lines 1-11), determining whether the any person flushed the at least one of the toilet and the waste dispenser 23 (col. 4, lines 20-24); if the any person flushed the at least one of the toilet and the waste dispenser, determining whether the any person washed their hands before opening the door to leave the second area; if it is determined that the any person did not wash their hands before opening the door to leave the second area (fig. 1; col. 6, lines 38-55).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Waltenberger in Wildman in order to reduce infection rate and save lives by enhancing efficiently the hygiene system as taught by Waltenberger (col. 1, lines 3-19).

Response to Arguments

6. Applicant's arguments with respect to claims 1-5, 9-10, 12, 22-23, 40-41 have been considered but are moot in view of the new ground(s) of rejection.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bogstad (US 4,896,144) discloses a hand washing alert.

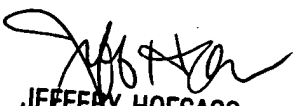
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Previl whose telephone number is (571) 272-2971. The examiner can normally be reached on Monday-Thursday. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass can be reached on (571) 272-2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel Previl
Examiner
Art Unit 2636

DP
January 11, 2005


JEFFERY HOFSSASS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600